

## REMARKS

Reconsideration and allowance are respectfully requested.

Claims 1, 3-12, 14, 16-18 and 28-30 are pending.

The amendments are fully supported by the original disclosure and, thus, no new matter has been added. If the Examiner should disagree, however, he is respectfully requested to point out the challenged limitation with particularity in the next Action so support may be cited in response.

### *Specification/Claim Objections*

The specification and claims were objected to. The informalities are corrected as suggested by the Examiner.

Withdrawal of the objection is requested.

### *35 U.S.C. 112 – Definiteness*

Claims 1, 3-12, 14 and 16-18 were rejected under Section 112, second paragraph, as being allegedly "indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." Applicants traverse.

The Examiner's suggestions for amending the claims to correct informalities are gratefully acknowledged. Adoption of his suggestions moots the rejections.

Applicants request withdrawal of the Section 112, second paragraph, rejection because the pending claims are clear and definite.

### *35 U.S.C. 102 – Novelty*

A claim is anticipated only if each and every limitation as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of Calif.*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is claimed. See *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 14 was rejected under Section 102(e) as allegedly anticipated by "SEQ ID NO:14 (Claim 26)" of Andersen et al. (U.S. Patent 5,955,077). Applicants traverse.

Andersen et al. do not disclose a composition comprising SEQ ID NO:14. Instead, claim 26 refers to a non-naturally occurring polypeptide comprising at least a 12 amino acid subsequence of the amino acid sequence of SEQ ID NO:2. They state at col. 5, lines 50-52, "In order to evoke a protective immune response, a polypeptide must be at least 12 amino acids long, preferably at least 15 amino acids, such as 20 amino acids" (emphasis added). Thus, the only disclosure by Andersen et al. of the total length of a polypeptide shorter than full-length ESAT-6 is 20 amino acids.

The claimed invention requires a kit comprising one or more peptides consisting of amino acid sequence(s) selected from SEQ ID NOS:3, 4, 7, 8, 9, 10, 11 and 12. There is no SEQ ID NO:14 recited in Applicants' claim 14.

Withdrawal of the Section 102 rejection is requested because all limitations of the claimed invention are not disclosed by the cited reference. Andersen et al. neither teach nor suggest a peptide epitope recognized by CD8 T cells; nor do they disclose a peptide consisting of an amino acid sequence of SEQ ID NOS:3, 4, 7, 8, 9, 10, 11 or 12.


#### *Conclusion*

Having fully responded to all of the pending objections and rejections contained in this Office Action, Applicants submit that the claims are in condition for allowance and earnestly solicit an early Notice to that effect. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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